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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE ENERGY RECOVERY INC.
SECURITIES LITIGATION

) Master File No.
) 3:15-cv-00265-EMC

) CLASS ACTION

) **STIPULATION AND [PROPOSED]**
) **ORDER TO CONTINUE**
) **SCHEDULING CONFERENCE**

) Hon. Edward M. Chen
)

STIPULATION

WHEREAS, this case is a putative class action brought under the Securities Exchange Act of 1934 (the “Exchange Act”);

WHEREAS, Section 21D(b)(3)(B) of the Exchange Act, 15 U.S.C. §78u-4(b)(3)(B), provides for a mandatory and automatic stay of “all discovery and other proceedings” during the pendency of any motion to dismiss brought in this matter;

WHEREAS, on October 9, 2015, Lead Plaintiff Henry Low (“Plaintiff”) filed the Amended Class Action Consolidated Complaint for Violation of the Federal Securities Laws (the “Complaint”);

WHEREAS, Defendants Energy Recovery, Inc., Thomas Rooney, and Audrey Bold (collectively, “Defendants”) filed a motion to dismiss the Complaint on November 9, 2015; and

WHEREAS, the Court granted in part and denied in part Defendants’ motion to dismiss on January 27, 2016, granting Plaintiff leave to amend;

WHEREAS, Plaintiff anticipates filing an amended complaint, which is currently due on or before May 29, 2016 pursuant to the Court’s Order dated February 11, 2016;

WHEREAS, Defendants anticipate moving to dismiss Plaintiff’s forthcoming amended complaint;

WHEREAS, Plaintiff is currently seeking to intervene in the related action styled *Barnes v. Energy Recovery, Inc., et al.*, Case No. 16-cv-00477-EMC (the “Barnes Action”), and oppose Energy Recovery, Inc.’s, Motion for Order Directing Plaintiff and Plaintiff’s Counsel to Return Defendant Energy Recovery, Inc.’s Documents;

WHEREAS, the Court in the Barnes Action referred Energy Recovery, Inc.’s, motion and Plaintiff’s motion to intervene to Magistrate Judge Laurel Beeler pursuant to its Order dated March 7, 2016;

WHEREAS, Magistrate Judge Laurel Beeler has not yet set a hearing date for the pending motions in the Barnes Action;

1 **WHEREAS**, the Court has set a Case Management Conference to be held on March 17,
2 2016, at 9:30 a.m., and has directed the parties to file a Case Management Statement on or before
3 March 10, 2016 (ECF No. 79);

4 **WHEREAS**, in light of Plaintiff's forthcoming amended complaint and Defendants'
5 anticipated motion to dismiss, the parties respectfully submit that it would be premature to set a case
6 schedule or develop a discovery plan at this stage of the proceedings; and

7 **WHEREAS**, the parties therefore respectfully request that the Court continue the Case
8 Management Conference to take place only after challenges to the pleadings are resolved.

9 **NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE**, subject to
10 the Court's approval, that:

11 1. The Case Management Conference, currently set for March 17, 2016 at 9:30 a.m.,
12 shall be taken off calendar.

13 2. The Case Management Conference will be rescheduled by the Court following the
14 resolution of challenges to the pleadings.

15 **IT IS SO STIPULATED.**

16 Dated: March 10, 2016

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1 Dated: March 10, 2016

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[PROPOSED] ORDER

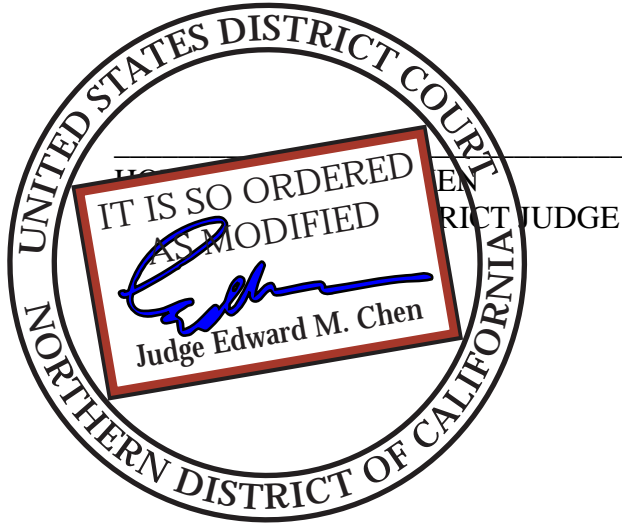
Upon review of the parties' Stipulation to Continue the Case Management Conference, and good cause appearing therefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Case Management Conference, currently set for March 17, 2016 at 9:30 a.m., is taken off the calendar.
2. The Case Management Conference ~~will be rescheduled by the Court following the resolution of challenges to the pleadings.~~ is reset for July 28, 2016 at 9:30 a.m. An updated joint CMC statement shall be filed by July 21, 2016.

IT IS SO ORDERED.

DATED: 3/11/16 _____



4831-9865-9883, v. 1